UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,867	01/18/2002	Joseph G. Buehl	43314/236951	5358

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
	10/053,867	BUEHL ET AL.
Office Action Summary	Examiner	Art Unit	
	Justin E. Shepard	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *30 October 2007*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-23* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-23* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a) ☐ All   b) ☐ Some * c) ☐ None of:
       1. ☐ Certified copies of the priority documents have been received.
       2. ☐ Certified copies of the priority documents have been received in Application No. _____.
       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

10/30/07 has been entered.

Response to Arguments

Applicant's arguments filed 10/30/07 have been fully considered but they are not

persuasive.

Page 7, paragraph beginning with "Applicant respectively":

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., the specifics of the application identifier) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

The applicant repeats his previous argument, using the example that Flickinger

does not perform any of the examples given as evidence that it does not meet the

limitations of the claims. As an "application identifier" is not a strictly defined term in the

art, the examiner is using a broad interpretation of this term. While the examiner will

agree that Flickinger and the invention might be different, this difference is not currently

conveyed in the claims. Flickinger (paragraph 56) discloses a system where the meta-

data is used to instruct the STB to perform a specific action depending on the

application, and using a broad interpretation of the claim, this meets the limitation.

Applicant's remaining arguments with respect to the claims have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5, 6, 7, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Flickinger in view of Del Sesto.

Referring to claim 1, Flickinger discloses an asset having a structure (figure 7,

part 717; paragraph 54) combining both related content and data for distribution and

service implementation in a digital cable system (figure 7), comprising:

a metadata object (paragraph 54; figure 7, part 707), wherein the metadata

object comprises an application identifier identifying an application associated with

processing the asset (paragraphs 56 and 74) and;

a content object (paragraph 62; figure 7, part 709), wherein the content object

represents data to be stored based upon instructions originating from the application as

a result of interpreting the metadata object (paragraphs 54 and 56) and wherein the

metadata object identifies the content object (paragraph 54).

Flickinger does not disclose an asset wherein the structure is understood by the

application identified by the application identifier.

In an analogous art, Del Sesto teaches an asset wherein the structure is

understood by the application identified by the application identifier (column 9, lines 25-

50).

At the time of the invention, it would have been obvious for one of ordinary skill in

the art to add the application header taught by Del Sesto to the asset disclosed by

Flickinger. The motivation would have been to allow for the receiver to easily and

quickly check for updates to the application which might have occurred.

Referring to claim 5, Flickinger discloses an asset of claim 1, wherein the content

object represents data selected from the group comprising an MPEG file (paragraph

61), an executable file, an HTML page, and a JPEG image.

Referring to claim 6, Flickinger discloses an asset of claim 1, wherein the metadata object identifies the content object (paragraph 54).

Flickinger does not disclose a system wherein the content object is identified as a movie.

The examiner takes official notice that it is notoriously well known in the art to use metadata to identify content as a movie. At the time of the invention it would have been obvious for one of ordinary skill in the art modify the metadata disclosed by Flickinger to identify the content to be a movie or any other type of content. The motivation would have been that providing the additional information would enable the system to store and retrieve data more efficiently, therefore saving time when performing the related actions.

Referring to claim 7, Flickinger discloses an asset of claim 1, further comprising a machine readable description identifying the metadata object and the content object (paragraphs 54 and 74).

Referring to claim 9, Flickinger discloses a digital cable system that receives and delivers content and data related to the content (figure 7, part 717; paragraph 54) to facilitate service implementation in a digital cable system (figure 7), comprising:

a staging server that receives an asset having a structure from a content provider (figure 7, part 701; paragraph 42), wherein the asset comprises both the content and

the data related to the content (paragraph 54), the data related to the content further

comprising an application identifier (paragraph 56).

Flickinger does not disclose a system with a content server storing the content

and in communication with a subscriber set-top box for providing the content to the set-

top box; and

a first application configured to process a machine readable description file and

the application identifier to identify a second application understanding the structure of

the asset, wherein the second .application interprets the data related to the content, and

wherein the second application identifies a server that receives the content from the

staging server.

In an analogous art, Del Sesto teaches a system with a content server storing the

content and in communication with a subscriber set-top box for providing the content to

the set-top box (figure 1); and

a first application configured to process a machine readable description file

(column 9, lines 29-32) and the application identifier to identify a second application

understanding the structure of the asset (column 9, lines 43-47), wherein the second

application interprets the data related to the content (column 9, lines 43-47), and

wherein the second application identifies a server that receives the content from the

staging server (column 9, lines 34-36).

At the time of the invention it would have been obvious for one of ordinary skill in

the art to add the application header taught by Del Sesto to the asset disclosed by

Flickinger. The motivation would have been to allow for the receiver to easily and

quickly check for updates to the application which might have occurred.

Referring to claim 10, Flickinger discloses a system of claim 9, further comprising

an asset management system comprising the first application processing the data

related to the content to identify the application associated with the application identifier

(figure 7, parts 719, 721 and 723).

Referring to claim 11, Flickinger discloses a system of claim 10, wherein the ·

asset management system maintains a database associating the content and the data

related to the content using the machine readable description file (paragraph 58).

Claims 12-16 and 19-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Flickinger in view of Del Sesto as applied to the claims above, and

further in view of Carles.

Referring to claim 12, Flickinger and Del Sesto do not disclose a system of claim

10, wherein the asset management system resides between the application and the

staging server such that the staging server and application are in indirect

communication.

In an analogous art, Carles teaches a system of claim 10, wherein the asset

management system resides between the application and the staging server such that

the staging server and application are in indirect communication (figure 5; column 9, lines 22-36).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the node addressing taught by Carles to the system disclosed by Flickinger and Del Sesto. The motivation would have been to enable sending less data to certain areas by only sending the appropriate data to the appropriate nodes (Flickinger: paragraph 30, lines 11-16).

Referring to claim 13, Flickinger and Del Sesto do not disclose a system of claim 10, wherein the asset management system is operable to instruct the content server to request at least a portion of the content from the staging server.

In an analogous art, Carles teaches a system of claim 10, wherein the asset management system is operable to instruct the content server to request at least a portion of the content from the staging server (column 4, lines 18-23).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the node addressing taught by Carles to the system disclosed by Flickinger and Del Sesto. The motivation would have been to enable sending less data to certain areas by only sending the appropriate data to the appropriate nodes (Flickinger: paragraph 30, lines 11-16).

Referring to claim 14, Flickinger and Del Sesto do not disclose a system of claim 9, wherein the application is operable to identify the content server based upon the data related to the content.

In an analogous art, Carles teaches a system of claim 9, wherein the application is operable to identify the content server based upon the data related to the content (column 3, lines 16-28).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the node addressing taught by Carles to the system disclosed by Flickinger and Del Sesto. The motivation would have been to enable sending less data to certain areas by only sending the appropriate data to the appropriate nodes (Flickinger: paragraph 30, lines 11-16).

Referring to claim 15, Flickinger and Del Sesto do not disclose a system of claim 9, wherein the content server receives at least a portion of the content from the staging server.

In an analogous art, Carles teaches a system of claim 9, wherein the content server receives at least a portion of the content from the staging server (column 3, lines 16-28).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the node addressing taught by Carles to the system disclosed by Flickinger and Del Sesto. The motivation would have been to enable sending less data

to certain areas by only sending the appropriate data to the appropriate nodes

(Flickinger: paragraph 30, lines 11-16).

Referring to claim 16, Flickinger does not disclose a system of claim 9, wherein

the content server requests the at least a portion of the content from the staging server

using File Transfer Protocol (FTP).

The Examiner takes Official Notice that it is notoriously well known in the art to

use FTP to transfer files on a communication network.

At the time of the invention it would have been obvious for one of ordinary skill in

the art to use FTP to connect up the components disclosed by Flickinger. The

motivation would have been to use a well known protocol to keep development costs

down.

Claim 19 is rejected on the same grounds as claim 9, 10 and 15.

Claims 20 and 21 are rejected on the same grounds as claim 15.

Claim 22 is rejected on the same grounds as claims 10 and 13.

Referring to claim 23, Flickinger does not disclose a method of claim 20, wherein

the step of examining the related data by the application further comprises the step of

identifying at least one server of a plurality of servers that should receive at least a

portion of the content based upon rules associated with the application.

In an analogous art, Del Sesto teaches a method of claim 20, wherein the step of examining the related data by the application further comprises the step of identifying at least one server of a plurality of servers that should receive at least a portion of the content based upon rules associated with the application(column 9, lines 25-50).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application header taught by Del Sesto to the asset disclosed by Flickinger. The motivation would have been to allow for the receiver to easily and quickly check for updates to the application which might have occurred.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to the claims above, and further in view of Hall.

Referring to claim 2, Flickinger and Del Sesto do not disclose an asset of claim 1, further comprising an embedded asset, such that the asset is recursive.

In an analogous art, Hall teaches an asset of claim 1, further comprising an embedded asset, such that the asset is recursive (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 3, Flickinger and Del Sesto do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 4, Flickinger and Del Sesto do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object (figure 6, "PROPERTY 3").

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset taught by Hall in the system disclosed by Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to the claims above, and further in view of Bergman.

Referring to claim 8, Flickinger and Del Sesto do not disclose an asset of claim 7, wherein the machine readable description comprises XML.

In an analogous art, Bergman teaches an asset of claim 7, wherein the machine readable description comprises XML (column 14, lines 58-67).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use XML for the metadata, as taught by Bergman, in the system disclosed by Flickinger and Del Sesto. The motivation would have been to use a well known description language so that it would be simpler for people to create metadata for the content.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to claim 9 above, and further in view of Chen.

Referring to claim 17, Flickinger and Del Sesto do not disclose a system of claim 9, wherein the application comprises a provisioning user interface to allow a user to identify the at least one server to receive at least a portion of the content.

In an analogous art, Chen teaches a system of claim 9, wherein the application comprises a provisioning user interface (figure 7, parts 508 and 510) to allow a user to identify the at least one server to receive at least a portion of the content (column 7, lines 10-14).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the UI taught by Chen to the system disclosed by Flickinger and Del

Sesto. The motivation would have been to enable the data to be further customized at the headend, therefore allowing data to be changed on an as needed basis.

Referring to claim 18, Flickinger and Del Sesto do not disclose a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server.

In an analogous art, Chen teaches a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server (column 7, lines 10-14).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the UI taught by Chen to the system disclosed by Flickinger and Del Sesto. The motivation would have been to enable the data to be further customized at the headend, therefore allowing data to be changed on an as needed basis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600